
By: **Chairman, Environmental Matters Committee (Departmental - Health
and Mental Hygiene)**

Introduced and read first time: February 1, 2001

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Milk and Milk Products - Regulation**

3 FOR the purpose of requiring a person to obtain a certain permit before the person
4 may transport a milk product; redesignating a milk hauler as a bulk milk
5 hauler/sampler; exempting certain persons from the permitting process;
6 increasing certain fees; establishing certain fees; altering the process for
7 appealing a final decision of the Secretary of Health and Mental Hygiene; and
8 generally relating to the regulation and permitting process for milk and milk
9 products.

10 BY repealing and reenacting, with amendments,

11 Article - Health - General

12 Section 21-401, 21-410, 21-411, 21-412, 21-413, 21-416, and 21-419

13 Annotated Code of Maryland

14 (2000 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Health - General**

18 21-401.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) "Bobtailer" means a person who operates or controls a Grade A milk route

21 and distributes Grade A pasteurized milk products that the person buys from a Grade

22 A distributor or a milk processor.

23 (C) "BULK MILK HAULER/SAMPLER" MEANS ANY PERSON WHO COLLECTS

24 OFFICIAL SAMPLES AND TRANSPORTS RAW MILK FROM A FARM OR RAW MILK

25 PRODUCTS OR BOTH TO OR FROM A MILK PLANT, RECEIVING STATION, OR TRANSFER

26 STATION AND WHO POSSESSES A PERMIT FROM ANY STATE TO SAMPLE THE MILK OR

27 RAW MILK PRODUCTS.

1 [(c)] (D) "Certified industry dairy farm inspector" means an individual who is
2 certified by the Secretary under § 21-414 of this subtitle.

3 [(d)] (E) "Dairy farm" means a place where at least 1 cow or goat is kept, and
4 from which the milk is sold or offered for sale.

5 [(e)] (F) "Departmental inspection area" means the area in which the
6 Department routinely makes inspections under this subtitle.

7 [(f)] (G) "Grade A distribution station" means any place or vehicle where, for
8 redistribution and sale, Grade A pasteurized milk products routinely are received,
9 stored, or transferred.

10 [(g)] (H) "Grade A distributor" means a person who sells a Grade A
11 pasteurized milk product.

12 [(h)] (I) "Grade A Pasteurized Milk Ordinance" means the recommended
13 Grade "A" Pasteurized Milk Ordinance published by the federal government.

14 [(i)] (J) (1) "Milk" means the milk of a cow or goat.

15 (2) "Grade A milk" means the milk of a cow or goat produced, processed,
16 pasteurized, bottled, packaged, or prepared in accordance with the Grade A
17 Pasteurized Milk Ordinance.

18 (3) "Manufactured milk" means the milk of a cow or goat which is not
19 Grade A milk and which is produced, processed, pasteurized, bottled, packaged, or
20 prepared in accordance with "Milk for Manufacturing Purposes and Its Production
21 and Processing: Recommended Requirements".

22 [(j)] (K) "Milk fat" means the natural fat of milk.

23 [(j-1)] (L) "Milk for Manufacturing Purposes and Its Production and
24 Processing: Recommended Requirements" means the Milk for Manufacturing
25 Purposes and Its Production and Processing: Recommended Requirements published
26 by the U.S. Department of Agriculture.

27 [(k)] "Milk hauler" means an individual who is in charge of a milk tank truck
28 while it is receiving, transporting, or delivering milk.]

29 [(l)] (M) (1) "Milk plant" means any place where, for distribution, milk
30 products are:

31 (i) Processed;

32 (ii) Pasteurized;

33 (iii) Bottled or packaged; or

34 (iv) Prepared.

1 (2) "Milk plant" does not include a place where milk products are sold at
2 retail only.

3 [(m)] (N) "Milk processor" means a person who owns, operates, or controls a
4 milk plant.

5 [(n)] (O) "Milk producer" means a person who operates a dairy farm.

6 [(o)] (P) (1) "Grade A milk product" means:

7 (i) Grade A milk;

8 (ii) Grade A cream; or

9 (iii) Any other Grade A milk product that the Secretary designates.

10 (2) "Manufactured grade milk product" means:

11 (i) Manufactured grade milk;

12 (ii) Manufactured grade cream; or

13 (iii) Any other manufactured grade milk product that the Secretary
14 designates.

15 [(p)] (Q) "Milk tank truck" means a truck and its equipment that are used to
16 transport milk products.

17 (R) "MILK TRANSPORTATION COMPANY" MEANS A PERSON RESPONSIBLE FOR
18 A MILK TANK TRUCK.

19 [(q)] (S) "Misbranded milk product" means a milk product:

20 (1) That is in a container that bears or is accompanied by any false or
21 misleading written, printed, or graphic material; or

22 (2) That is not labeled in accordance with this subtitle.

23 [(r)] (T) (1) "Pasteurized" means having undergone the process of uniformly
24 heating each particle of milk product, holding it in the heated state, and cooling it, in
25 approved and properly operated equipment and under the conditions of temperature
26 and time that the Secretary by rule or regulation establishes, to make the milk
27 product safe and free of pathogens.

28 (2) "Pasteurized" includes having undergone any other process that:

29 (i) Is recognized by the appropriate federal authority to be equally
30 as effective as the process described in paragraph (1) of this subsection in making
31 milk products safe and free of pathogens; and

32 (ii) Is approved by the Secretary.

1 [(s)] (U) "Permit" means a permit issued by the Secretary under this subtitle
2 that authorizes the holder of the permit to do any act that is within the scope of the
3 permit.

4 [(t)] (V) "Raw milk" means unpasteurized milk.

5 [(u)] (W) "Receiving station" means any place where, for delivery to a milk
6 plant, raw milk is collected, cooled, and stored.

7 [(v)] (X) "Transfer station" means a place where milk is transferred directly
8 from a milk tank truck to another milk tank truck for delivery to a milk plant.

9 21-410.

10 (a) Except as otherwise provided in this section, a person shall obtain a permit
11 with a Grade A or a manufactured grade classification from the Secretary before that
12 person may:

13 (1) Bring, send, or receive a milk product into this State for sale;

14 (2) Offer a milk product for sale;

15 (3) Give a milk product away; [or]

16 (4) Store a milk product; OR

17 (5) TRANSPORT A MILK PRODUCT.

18 (b) A permit is required to:

19 (1) Be a bobtailer;

20 (2) BE A BULK MILK HAULER/SAMPLER;

21 [(2)] (3) Be a certified industry dairy farm inspector;

22 [(3)] (4) Be a milk processor;

23 [(4)] (5) Be a milk producer;

24 [(5)] Be a milk hauler;]

25 (6) Operate a distribution station;

26 (7) OPERATE A MILK TRANSPORTATION COMPANY;

27 [(7)] (8) Operate a receiving station; or

28 [(8)] (9) Operate a transfer station.

29 (c) A permit is not required for:

1 (1) A milk producer who is outside the departmental inspection area if
2 the raw milk from that milk producer is processed by a milk processor who holds a
3 permit issued under this subtitle;

4 (2) A [milk hauler] BULK MILK HAULER/SAMPLER who receives raw
5 milk from outside the departmental inspection area;

6 (3) A grocery store, restaurant, soda fountain, or similar establishment
7 where milk products are served or sold at retail if:

8 (i) The establishment complies with all applicable provisions of
9 this subtitle and all applicable rules or regulations adopted under this subtitle; and

10 (ii) The milk product is received from a permit holder; or

11 (4) A [milk hauler] BULK MILK HAULER/SAMPLER who is transporting a
12 sealed tanker and not producers' samples.

13 (d) The Secretary shall designate all permits with one of the following
14 classifications, as required by rules and regulations:

15 (1) Grade A milk; or

16 (2) Manufactured milk.

17 21-411.

18 (a) To qualify for a permit, a person shall comply with the requirements of this
19 subtitle and the rules and regulations adopted under this subtitle.

20 (b) In addition to the requirements of subsection (a) of this section, to qualify
21 for a certified industry dairy farm inspector permit or a [milk hauler] BULK MILK
22 HAULER/SAMPLER permit, Grade A classification, the applicant shall meet the
23 requirements of the Grade A Pasteurized Milk Ordinance.

24 (c) In addition to the requirements of subsection (a) of this section, to qualify
25 for a certified industry dairy farm inspector permit or a [milk hauler] BULK MILK
26 HAULER/SAMPLER permit, manufactured milk classification, the applicant shall meet
27 the requirements of Milk for Manufacturing Purposes and Its Production and
28 Processing: Recommended Requirements.

29 21-412.

30 (a) An applicant for a permit shall:

31 (1) Submit an application to the Secretary on the form that the Secretary
32 provides; and

33 (2) Pay to the Secretary the annual fee specified in this section.

34 (b) The Secretary shall charge the following fees for permits:

- 1 (1) Bobtailer permit \$50.
- 2 (2) BULK MILK HAULER/SAMPLER PERMIT \$50.
- 3 [(2)] (3) Certified industry dairy farm inspector permit [\$10] \$20.
- 4 [(3)] (4) Distribution station permit [\$25] \$50.
- 5 [(4)] (5) Milk processor permit [\$100] \$200.
- 6 [(5)] (6) Milk producer permit No fee.
- 7 [(6)] (7) [Milk hauler permit] MILK TRANSPORTATION COMPANY
 8 PERMIT [\$5] \$50, PLUS \$20 FOR EACH MILK TANK TRUCK.
- 9 [(7)] (8) Receiving station permit [\$25] \$50.
- 10 [(8)] (9) Transfer station permit [\$25] \$50.

11 21-413.

12 (a) If the property of the applicant is in the departmental inspection area,
 13 before issuing a permit, the Secretary shall inspect the property, buildings, and
 14 equipment of an applicant for:

- 15 (1) A bobtailer permit;
- 16 (2) A distribution station permit;
- 17 (3) A milk processor permit;
- 18 (4) A milk producer permit;
- 19 (5) A MILK TRANSPORTATION COMPANY PERMIT;
- 20 [(5)] (6) A receiving station permit; or
- 21 [(6)] (7) A transfer station permit.

22 (b) Each inspection under this section shall be to determine whether the
 23 property, buildings, equipment, and their operation conform to the rules and
 24 regulations adopted under this subtitle.

25 (c) To ensure continued conformity to the rules and regulations adopted under
 26 this subtitle, the Secretary from time to time shall reinspect the property, buildings,
 27 and equipment of each permit holder for whom an initial inspection is required under
 28 this section.

1 21-416.

2 (a) While it is effective, a bobtailer permit authorizes the holder, on a Grade A
3 milk route that the holder operates or controls, to distribute Grade A pasteurized milk
4 products that the holder purchased from a Grade A distributor or a Grade A milk
5 processor.

6 (b) While it is effective, a certified industry dairy farm inspector permit
7 authorizes the holder to inspect dairy farms in accordance with this subtitle.

8 (c) While it is effective, a distribution station permit authorizes the holder, for
9 redistribution and sale, whether from a fixed location or from a vehicle:

- 10 (1) To receive Grade A pasteurized milk products;
11 (2) To store Grade A pasteurized milk products; and
12 (3) To transfer Grade A pasteurized milk products for redistribution and
13 sale.

14 (d) While it is effective, a milk processor permit authorizes the holder:

- 15 (1) To collect raw milk;
16 (2) To handle raw milk;
17 (3) To process raw milk;
18 (4) To pasteurize raw milk;
19 (5) To store pasteurized milk;
20 (6) To bottle or package pasteurized milk;
21 (7) To prepare pasteurized milk for distribution; and
22 (8) To distribute pasteurized milk.

23 (e) While it is effective, a milk producer permit authorizes the holder:

- 24 (1) To operate a dairy farm; and
25 (2) To sell raw milk from the dairy farm to:
26 (i) A receiving station;
27 (ii) A transfer station; or
28 (iii) A milk plant.

29 (f) While it is effective, a [milk hauler] BULK MILK HAULER/SAMPLER permit
30 authorizes the holder, while operating a milk tank truck:

1 (1) To receive raw milk products from a milk producer, milk plant,
2 receiving station, or transfer station;

3 (2) To transport raw milk products that have been received from a milk
4 producer, milk plant, receiving station, or transfer station; and

5 (3) To deliver raw milk products that have been received from a milk
6 producer, milk plant, receiving station, or transfer station.

7 (g) While it is effective, a receiving station permit authorizes the holder:

8 (1) To collect raw milk;

9 (2) To cool raw milk;

10 (3) To process raw milk;

11 (4) To store raw milk; and

12 (5) To prepare raw milk for delivery to a milk plant.

13 (h) While it is effective, a transfer station permit authorizes the holder to
14 operate a place where raw milk is transferred between milk tank trucks for eventual
15 delivery to a milk plant.

16 (i) A permittee authorized to perform a function under this subtitle shall only
17 exercise that authority as to the classification for which it is designated, except that:

18 (1) Unless otherwise specified in this subtitle, a milk producer permittee
19 with a Grade A classification authorized to perform a function under this subtitle may
20 exercise that authority for manufactured milk; and

21 (2) A milk processor, receiving station, or transfer station with a
22 manufactured milk classification may exercise that authority using Grade A raw
23 milk.

24 (J) WHILE IT IS EFFECTIVE, A MILK TRANSPORTATION COMPANY PERMIT
25 AUTHORIZES THE HOLDER TO OPERATE ONE OR MORE MILK TANK TRUCKS.

26 21-419.

27 (a) Except as otherwise provided in this subtitle and in the Administrative
28 Procedure Act, before the Secretary denies an application for a permit or takes any
29 action under § 21-418 of this subtitle, the Secretary shall give the person against
30 whom the action is contemplated an opportunity for a hearing before the Secretary.

31 (b) Except as otherwise provided in this section, the Secretary shall give notice
32 and hold the hearing in accordance with the Administrative Procedure Act.

1 (c) (1) Within 48 hours after the person receives notice of the Secretary's
2 action, a person whose permit has been suspended or who has received a notice that
3 the Secretary intends to suspend the permit may request a hearing.

4 (2) Within 72 hours after receiving the request for a hearing, the
5 Secretary shall hold the hearing.

6 (d) If after due notice the person for whom the hearing is held fails or refuses
7 to appear, nevertheless the Secretary may hear and determine the matter.

8 (e) A person aggrieved by a final decision of the Secretary in a contested case,
9 as defined by the Administrative Procedure Act, may [take an appeal] NOT APPEAL
10 TO THE BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 2001.